

## Tinjauan yuridis mengenai penjualan di bawah tangan harta pailit = Juridical review of sales under hand of property bankruptcy

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### Abstrak

Putusan pernyataan pailit mengakibatkan harta kekayaan debitor dimasukkan dalam harta pailit sejak putusan tersebut dikeluarkan. Kepailitan meliputi seluruh kekayaan debitor pada saat putusan pernyataan pailit diucapkan serta segala sesuatu yang diperoleh selama kepailitan (Pasal 21 UU Nomor 37 Tahun 2004). Pengurusan harta pailit dilakukan oleh kurator yang ditetapkan dalam putusan pernyataan pailit tersebut. Pelaksanaan pengurusan harta pailit oleh kurator bersifat seketika, berlaku saat itu juga terhitung sejak putusan pailit diucapkan. Salah satu tugas kurator dalam melakukan pengurusan harta pailit adalah penjualan harta tersebut. UUKPKPU dalam Pasal 185 mengintrodusir dua cara penjualan harta pailit (asset-aset debitor), menjual didepan umum dan dibawah tangan dengan izin hakim pengawas. Penjualan dibawah tangan harta pailit merupakan penjualan tanpa terlibatnya pejabat kantor lelang. Sedangkan pada dasarnya penjualan harta pailit harus dilakukan secara penjualan lelang. Salah satu dasar hukumnya lelang adalah Peraturan Menteri Keuangan Nomor 27/PMK.06/2016 tentang Petunjuk Pelaksanaan Lelang. Sedangkan penjualan dibawah tangan tidak diatur jelas dalam UUKPKPU maupun di Undang-Undang lain dalam hal tata cara penjualan dibawah tangan itu sendiri. Kekosongan Hukum ini yang beresiko menimbulkan sengketa dikemudian hari atas kurator yang beritikad buruk. Tesis ini membahas mengenai kekosongan hukum yang terjadi pada UUKPKPU dalam hal penjualan dibawah tangan harta pailit dan upaya hukum yang ideal dalam menyelesaikan sengketa pengurusan harta pailit.

.....Bankruptcy assets since the decision was issued. Bankruptcy covers the entire wealth of the debtor at the time of the declaration of bankruptcy pronounced the decision of as well as everything that is obtained during the bankruptcy (Article 21 of Law No. 37 of 2004 on Bankruptcy and Suspension of Payment). Handling bankruptcy assets made by curators set out in the decision of the bankruptcy declaration. Implementation of the maintenance of bankruptcy assets by the curator is instantaneous, with immediate effect as from the bankruptcy decision is pronounced. One task of the curator in performing the maintenance of bankruptcy assets is the sale of such property. Law on Bankruptcy and Suspension of Payment Article 185 introduces two ways of selling bankruptcy assets (the debtor's assets), sold in public and under the arms with the permission of the supervisory judge. Sales under the hands of bankruptcy assets without the involvement of a sales office official auction. While basically the sale of bankruptcy assets must be made in auction sales. One of the legal basis auctions Minister of Finance Regulation No. 27 / PMK.06 / 2016 on Guidelines for the Implementation of the Auction. While sales are not regulated under the hands clearly in bankruptcy law and suspension of debt payments and in other Laws on the manner of sales under the hand itself. Emptiness This law is likely to cause a dispute later on curators who act in bad faith. This thesis discusses the legal vacuum that occurred on bankruptcy law and the postponement of debt payment obligations in terms of sales under the hands of bankruptcy assets and remedies are ideal in resolving disputes and the maintenance of bankruptcy assets.